

Message Text

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ACTION STR-04

INFO OCT-01 ARA-06 IO-13 ISO-00 STRE-00 FEA-01 AGR-05

CEA-01 CIAE-00 COME-00 DODE-00 EB-07 FRB-03 H-02

INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05

CIEP-01 SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02

OMB-01 AF-08 EA-07 EUR-12 NEA-10 /137 W

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R 211811Z SEP 76

FM USDEL MTN GENEVA

TO SECSTATE WASHDC 1891

AMEMBASSY BRASILIA

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ACTION STR

E.O. 11652: NA

TAGS: ETRD, GATT, MTN

SUBJECT: DISCUSSION ON FRAMEWORK IMPROVEMENT GROUP

REF: STATE 229728

1. SUMMARY. JOINT CONSULTATION HELD SEPTEMBER 20 WITH EC, BRAZIL, JAPAN AND CANADA TO DISCUSS ESTABLISHMENT OF FRAMEWORK IMPROVEMENT GROUP. BASIS FOR DISCUSSION WAS U.S. VIEWS ON TERMS OF REFERENCE OFFERED BY BRAZIL (REFTEL). PURPOSE WAS TO PRESENT U.S. VIEWS AND DETERMINE WHETHER THEREE IS A SUITABLE BASIS FOR DEVELOPING ACCEPTABLE TERMS OF REFERENCE. COMMENTS OF TOHERS ON U.S. PRESENTATION WERE PRELIMINARY. BRAZILIANS REISED SEVERAL QUESTIONS, IN MANY CASES CONCERNING DRAFTING BUT IN SOME INDICATING IMPORTANT DIFFERENCES IN APPROACH (E.G., EMPHASIS ON LDC ISSUES, LIMITED OFFICIAL USE

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GRADUATION SUPPLY ACCESS). EC, JAPAN AND CANADA

ALL EXPRESSED AGREEMENT WITH PRINCIPLE OF LIMITING THE SCOPE OF A REFORM EFFORT AND AVOIDING DUPLICATION. HOWEVER, EC WAS AMBIVALENT ON WHETHER TO RESTRICT A FRAMEWORK IMPROVEMENT GROUP TO LDC ISSUES. CANADA, EXPRESSING RESERVATIONS ABOUT INCLUSION OF SUPPLY ACCESS ISSUE, QUESTIONED APPROPRIATENESS OF MENTIONING SPECIFIC ISSUES IN TERMS OF REFERENCE. END SUMMARY.

2. ON SEPTEMBER 20, U.S. MET WITH REPRESENTATIVES OF BRAZIL, JAPAN, EC AND CANADA TO DISCUSS U.S. VIEWS ON TERMS OF REFERENCE FOR A REFORM GROUP PROPOSED BY BRAZIL. MEETING HOSTED BY AMBASSADOR MACIEL FOCUSED ON U.S. DRAFT LANGUAGE INCLUDED IN REFTEL PRESENTED AS ILLUSTRATIVE OF US CONCERNS WITH BRAZILIAN DRAFT TERMS OF REFERENCE.

3. AT MACIEL'S REQUEST AMBASSADOR WALKER BEGAN BY OUTLINING US VIEWS. AMBASSADOR WALKER REPEATED FUNDAMENTAL US CONCERNS THAT THE WORK PROGRAM OF A FRAMEWORK IMPROVEMENT GROUP (A) MUST NOT DUPLICATE WORK OF TOHER TNC GROUPS, (B) MUST REFLECT A BALANCE OF INTERESTS AMONG THOSE NEGOTIATING AND (C) MUST BE NEGOTIABLE WITHIN THE MTN TIME-FRAME. HE EXPLAINED THE RATIONALE BEHIND EACH DEPARTURE FROM THE TERMS OF REFERENCE PROPOSED BY BRAZIL.

4. MACIEL, NOTING THAT HE DID NOT YET HAVE GUIDANCE FROM BRASILIA, RESPONDED WITH FOLLOWING QUESTIONS AND COMMENTS. WITH RESPECT TO PARA 2 OF REFTEL, MACIEL INDICATED UNHAPPINESS WITH DELETION OF REFERENCE TO THE LDCS IN THE FORMAL TERMS OF REFERENCE BUT RECOGNIZED THAT THE ACCOMPANYING UNDERSTANDING WOULD INCLUDE RECOGNITION OF THE SPECIAL INTEREST OF THE LDCS. HE ALSO SOUBTED NEED FOR INLLUSION OF PHRASE "MUTUALLY AGREED" IN MANDATE OF GROUP TO NEGOTIATE IMPROVEMENT IN THE FRAMEWORK FOR THE CONDUCT OF WORLD TRADE. HE QUESTIONED WHETHER IT ADDED ANYTHING TO THE TEXT, PARTICULARLY IF IT HAD ANY LEGAL IMPLICATIONS. WE SUGGESTED THAT IT DID NOT.

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5. MACIEL OBJECTED TO VAGUENESS OF FORMULATION THAT THE GROUP NOT "REOPEN ISSUES OR AGREEMENTS WHICH MAY BE REACHED IN OTHER GROUPS." HE REMARKED THAT IT IS IMPOSSIBLE TO PRDICT WHAT AGREEMENTS MAY BE REACHED IN OTHER GROUPS. HOWEVER, HE APPEARED TO APPRECIATE THE US CONCERN THAT A REFORM GROUP SHOULD NOT BE ABLE TO TAKE UP ISSUES SUBJECT TO,AS WELL AS UNDER, NEGOTIATION IN EXISTING GROUPS. AMBASSADOR WALKER

REPLIED THAT THERE APPEARED TO BE AGREEMENT ON THE
CONCEPT AND THAT THE QUESTION WAS MORE ONE OF DRAFTING.

6. QUESTIONING US REFERENCE TO "MORE MEANINGFUL
PARTICIPATION OF DEVELOPING COUNTRIES IN THE TRADING
SYSTEM," MACIEL ASKED MEANING OF "MORE MEANINGFUL" AND
"THE TRADING SYSTEM." HE WANTED TO KNOW WHETHER THE
IDEA INCLUDED FULLER PARTICIPATION BY THE LDCS IN
THE DECISION-MAKING PROCEDURES OF THE GATT. US
REPLIED THAT, TO THE EXTENT LDCS ACCEPT RULES AND
PROCEDURES GOVERNING INTERNATIONAL TRADE, THEY
COULD EXPECT TO PLAY A GREATER ROLE IN THE DECISION-
MAKING PROCESS.

7. ON SPECIFIC ITEMS TO RECEIVE PRIORITY FOCUS OF
REFORM GROUP, MACIEL RECOGNIZED RATIONALE FOR
MODIFICATION OF THE MFN ISSUE PROPOSED BY THE
BRAZILIANS BUT CALLED US REFORMULATION TOO VAGUE
AND ACADEMIC. HE THOUGHT THERE SHOULD BE A BETTER
DESCRIPTION OF THIS ISSUE. HE ALSO INDICATED
DIFFICULTY WITH THE REFERENCE TO TRADE AMONG DEVELOPING
COUNTRIES. IN HIS VIEW THIS WAS NOT A PRIORITY ITEM,
AND HE SUGGESTED THERE WOULD BE PROBLEMS IN SELLING IT
TO OTHER LDCS.

8. ON "SAFEGUARD" ISSUE, MACIEL THOUGHT NEGOTIATION
ON THE "USE" OF TRADE MEASURES UNDER ARTICLES XII AND
XVIII WAS TOO RESTRICTIVE. HE SUGGESTED THAT UNDER
SUCH A FORMULATION, NEGOTIATION WOULD BE LIMITED TO
THE MANNER IN WHICH ACTIONS ALREADY AUTHORIZED ARE
USED. MACIEL RAISED NO PROBLEMS WITH US SUGGESTIONS
ON THE CONSULTATION, SURVEILLANCE AND DISPUTE SETTLE-
MENT ISSUE.

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OMB-01 AF-08 EA-07 EUR-12 NEA-10 /137 W

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ACTION STR

9. MAJOR DIFFICULTY FOR THE BRAZILIANS APPEARED TO BE ISSUE OF GRADUATION. MACIEL THOUGHT THAT, AS A PRACTICAL MATTER, THE ISSUES INVOLVED ARE "YEARS AWAY" AND THAT MENTION OF IT RAISES "POLITICAL AND PSYCHOLOGICAL" PROBLEMS. THIS LATTER REFERENCE CLEARLY RELATED TO THE LIKELY PROBLEMS OF RAISING THIS ISSUE WITH THE G-77. IN ADDITION TO THIS REASON FOR EXPRESS LIMITATION OF DISCUSSION OF RECIPROCITY TO FUTURE NEGOTIATIONS. THE US RESPONDED THAT WE ARE SIMPLY UNWILLING TO ENTERTAIN THE POSSIBILITY OF REOPENING THE RECIPROCITY STANDARD OF THE TOKYO DECLARATION.

10. FINALLY, WHILE MACIEL DID NOT OBJECT TO THE INCLUSION AMONG THE PRIORITY ITEMS OF SUPPLY ACCESS, PER SE, HE ARGUED THAT THE PRECISE FORMULATION OF THE US SEEMED TO PREJUDGE THE RESULTS OF NEGOTIATIONS AND CHEN CONTRASTED WITH THE VAGUENESS OF THE WORDING
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ON MFN, LED TO A IMBALANCE IN THE PRESENTATION OF THE ISSUES. HE DID NOT SUGGEST ANY ALTERNATIVE LANGUAGE.

11. JAPAN WAS UNINSTRUCTED AND UNABLE TO COMMENT WITH ANY SPECIFICITY ON US SUGGESTIONS. HOWEVER, THE JAPANESE REP EMPHASIZED THE NEED FOR MORE SPECIFIC TERMS OF REFERENCE AND SUGGESTED THAT THE PROHIBITION ON DUPLICATION OF WORK OF OTHER TNC GROUPS MIGHT NEED TO BE "AMPLIFIED" SO THAT GROUP

WOULD NOT DEVIATE FROM ORIGINAL INTENT.

12. LIKE THE JAPANESE, THE EC HAD NOT OFFICIAL POSITION ON THE US COMMENTS. EC REP (LUYTEN) INDICATED THAT THE EC HAD NOT YET DECIDED WHETHER A FRAMEWORK GROUP SHOULD DEAL DOLELY WITH LDC ISSUES OR SHOULD ALSO DEAL EITH ISSUES OF INTEREST TO DCS. EC DECISION ON THIS POINT WOULD AFFECT THE LIST OF PRIORITY ISSUES FOR REVIEW. FOR EXAMPLE, LUYTEN IMPLIED THAT, IF THE EC DECIDES THAT THE GROUP OUGHT TO DEAL WITH LDC ISSUES ONLY, IT WOULD NOT SUPPORT NEGOTIATION ON ARTICLE XII. ALSO, A DECISION ON SCOPE OF GROUP WOULD AFFECT THE EC POSITION ON INCLUSION OF SUPPLY ACCESS. ALTHOUGH AT THE LAST 7 PLUS 7 MEETING THE EC PROPOSED THAT SUPPLY SECURITY BE TAKEN UP IN A REFORM CONTEXT, LUYTEN ACKNOWLEDGED THAT THE EC WAS NOW "WAVERING."

13. WITH RESPECT TO THE "LDC ISSUES" OF MTN AND RECIPROCITY, LUYTEN ARGUED THAT ANY DISCUSSIONS OF APPLICATION OF THE MFN ROLE SHOULD INCLUDE INTRA-LDC TRADE AS WELL AS DC-LDC TRADE. ON THE QUESTION OF RECIPROCITY, HE STRESSED THE IMPORTANCE OF INCLUDING IN ANY DISCUSSION THE CONCEPT OF GRADUATION. ON THE ISSUE OF DISPUTE SETTLEMENT, LUYTEN QUESTIONED WHETHER AN EFFORT IN A REFORM CONTEXT COULD AVOID DUPLICATING WORK BEING DONE ELSEWHERE.

14. CANADA REAFFIRMED SUPPORT FOR A REFORM GROUP BUT AGAIN CAUTIONED THAT SUCH A GROUP MUST NOT DUPLICATE WORK DONE ELSEWHERE. WITH THIS CONDITION SPECIFIED, THE CANADIAN REP INDICATED THAT A GROUP SHOULD SET OUT ITS OWN WORK FOR A LIST OF LIMITED OFFICIAL USE

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PRIORITY ISSUES. HOWEVER, IN COMMENTING ON THE PRIORITY ISSUES PROPOSED BY THE US, CANADA RAISED MAJOR OBJECTIONS ONLY WITH RESPECT TO INCLUSION OF SUPPLY ACCESX, ON BASIS THAT THE ISSUE WAS ALREADY UNDER CONSIDERATION IN OTHER GROUPS AND NOT READY FOR TREATMENT AS A GENERAL ISSUE.

15. IN CONCLUDING THE DISCUSSION, AMBASSADOR WALKER SAID THAT THE US SUGGESTIONS ON TERMS OF REFERENCE FOR A REFORM GROUP WERE PRESENTED FOR PURPOSES OF DISCUSSION. HOWEVER, HE DID EMPHASIZE THAT OUR SUGGESTIONS REFLECTED FUNDAMENTAL US CONCERNS WHICH WOULD HAVE TO BE SATISFIED IF THE US IS TO SUPPORT A REFORM GROUP.

16. COMMENT: MEETING, WHICH WAS MILD, SERVED HIGHLY USEFUL FUNCTION OF GETTING US CONCERNS BEFORE OTHER

KEY COUNTRIES AND IMPRESSING ON BRAZILIANS THAT THE
US IS NOT ALONE IN HAVING SERIOUS PROBLEMS
WITH TERMS-OF-REFERENCE PROPOSED BY BRAZIL. WE ANTICIPATE
FURTHER CONSULTATIONS WITH DELEGATIONS
REPRESENTED AT THE MEETING ONCE THEY HAVE INSTRUCTIONS
FOR SEPTEMBER 23 7 PLUS 7 MEETING. END COMMENT.
WALKER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TRADE, MEETINGS, TARIFFS
Control Number: n/a
Copy: SINGLE
Draft Date: 21 SEP 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: saccheem
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976MTNGE07372
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760357-0472
From: MTN GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760937/aaaabfrz.tel
Line Count: 284
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION STR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 STATE 229728
Review Action: RELEASED, APPROVED
Review Authority: saccheem
Review Comment: n/a
Review Content Flags:
Review Date: 12 MAY 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <12 MAY 2004 by greeneet>; APPROVED <09 SEP 2004 by saccheem>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: DISCUSSION ON FRAMEWORK IMPROVEMENT GROUP
TAGS: ETRD, US, BR, JA, CA, GATT, MTN
To: STATE BRASILIA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006